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No. 02-1674

In The
Supreme Court of the United States

MITCH MCCONNELL, et al.,

Appellants,

v.

FEDERAL ELECTION COMMISSION, et al.,

Appellees.

On Appeal From The United States District Court For The District Of Columbia

BRIEF OF *AMICI CURIAE* THE CALIFORNIA STUDENT PUBLIC INTEREST RESEARCH GROUP, INC., THE MASSACHUSETTS STUDENT PUBLIC INTEREST RESEARCH GROUP, THE PUBLIC INTEREST RESEARCH GROUP OF NEW JERSEY, INC., U.S. PIRG, FANNIE LOU HAMER PROJECT, THE ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW, AND PUBLIC CAMPAIGN IN SUPPORT OF APPELLEES

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INTERESTS OF *AMICI*[1]

Amici California Student Public Interest Research Group, Inc. (CALPIRG), Massachusetts Student Public Interest Research Group (MASSPIRG), and Public Interest Research Group of New Jersey, Inc. (NJPIRG Student Chapters) are state-based, non-profit, non-partisan organizations that conduct research, advocacy, and public education campaigns on a host of public interest issues including public health, environmental and consumer protection, higher education and good government. These PIRGs are directed by college students who lack the means to make large political contributions. Many state PIRGs have supported policies similar to Bipartisan Campaign Reform Act of 2002 (BCRA) Title I soft money provisions at the state level, and the outcome of this lawsuit will affect the ability of state PIRGs to support such policies in the future.

[1] Pursuant to Rule 37.6, *amici* hereby certify that no counsel for a party in the actions involving Title I of the BCRA, *McConnell v. FEC*, No. 02-1674; *Republican Nat'l Comm. v. FEC*, No. 02-1727; *Cal. Democratic Party v. FEC*, No. 02-1753; *Paul v. FEC*, No. 02-1747; *National Right to Life Committee v. FEC*, No. 02-1733; *FEC v. McConnell*, No. 02-1676; *McCain v. McConnell*, No. 02-1702, authored this brief in whole or in part. *Amici* CALPIRG, MASSPIRG, NJPIRG, USPIRG, FLHP and ACORN are appellants in *Adams v. FEC*, No. 02-1740, which involves only increases in individual contributions to candidates contained in Title III of the BCRA and not any provisions of Title I. *Amici* further certify that no person other than *amici*, their members and their counsel have made any financial contribution to the preparation or submission of this brief. Consents to briefs *amicus curiae* from all parties have been filed with the Clerk of the Court.

Amicus U.S. PIRG is the national advocacy office of twenty-seven state PIRGs. U.S. PIRG supports political reform to make government accountable to ordinary citizens, believing that meaningful campaign finance reform is necessary to promote the public interest in government by the people.

Amicus Fannie Lou Hamer Project (FLHP), named after the legendary civil rights worker from Mississippi, is a non-profit organization that fights for political equality for low- and moderate-income communities of color across the country. The project seeks to address inequities in the campaign finance system which limit civic and political participation based on socioeconomic status and which result in a disparate impact on communities of color.

Amicus Association of Community Organizations for Reform Now (ACORN) is the nation's largest community organization of low and moderate-income families, with over 150,000 member families organized into 700 neighborhood chapters in 51 cities across the country. ACORN's effort to advance the interests of low and moderate-income families is severely undermined by a system in which vast sums of money are required to engage in political participation.

Amicus Public Campaign is a non-profit, non-partisan educational organization with separate corporate branches established under sections 501(c)(3) and 501(c)(4) of the Internal Revenue Code. Public Campaign promotes reforms that aim to dramatically reduce the role and influence of money in U.S. elections, in particular the public financing of election campaigns, and monitors the influence of fundraising and campaign contributions on representative bodies.

All of the *amici* share a concern over the growing, corrosive influence of unregulated soft money contributions in national politics, and therefore share an interest in preserving the regulations of political party contributions and expenditures in Title I of BCRA.[2]

SUMMARY

The record demonstrates that a few wealthy individuals and corporations capable of making massive nonfederal political party donations ("soft money" gifts) have exercised grossly disproportionate electoral influence. To permit this trend to continue to grow would, in practical terms, destroy the underpinnings of democratic governance. Denied an effective voice, ordinary citizens have no incentive to participate in – or even believe in – electoral politics.

The soft money regulations in BCRA's Title I[3] are unquestionably justified by the government's interest in combating the reality or appearance of corruption, as the Defendants and Intervenors have comprehensively documented in the proceedings below. In addition, however, this litigation presents the Court with an opportunity to affirm that equality of access to the electoral system serves core values that are implicit in the First Amendment.

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[2] While *amici* support the "electioneering" provisions contained in Title II of BCRA, this brief focuses solely on Title I.

[3] Bipartisan Campaign Reform Act of 2002, Pub. L. No. 107-155, § 101, 116 Stat. 82; BCRA § 102, 116 Stat. 86; BCRA § 103, 116 Stat. 87.

Equality concerns are deeply embedded in this court's First Amendment jurisprudence.[4] These values protect the speech and association of all members of the public, in order to preserve the "public participation and open discussion that the First Amendment itself presupposes." *Nixon v. Shrink Mo. Gov't PAC*, 528 U.S. 377, 401 (2000) (Breyer, J., joined by Ginsburg, J., concurring). When considering regulation of corporate expenditures, the Court has recognized the need to "protect the integrity of the marketplace of political ideas" by denying "resources amassed in the economic marketplace" the ability to gain an "unfair advantage in the political marketplace." *FEC v. Mass. Citizens for Life* ("*MCFL*"), 479 U.S. 238, 257 (1986). In approving federal individual contribution limits, Justice Breyer has observed that contribution limits "aim to democratize the influence that money itself may bring to bear upon the electoral process." *Shrink Mo.*, 528 U.S. at 401 (Breyer, J., joined by Ginsburg, J., concurring) (citing *Reynolds*, 377 U.S. at 565, for the proposition that "in the context of apportionment, the Constitution 'demands' that each citizen have 'an equally effective voice' ").

[4] This Court's election law decisions based on the equal protection clause have also consistently affirmed the importance of equal participation in politics. *See Harper v. Va. Bd. of Elections*, 383 U.S. 663 (1966) (poll tax violates equal protection clause of Fourteenth Amendment); *Bullock v. Carter*, 405 U.S. 134 (1972) (mandatory candidate filing fees violate equal protection clause of Fourteenth Amendment); *Lubin v. Panish*, 415 U.S. 709 (1974) (mandatory candidate filing fees violate equal protection clause of Fourteenth Amendment); *Reynolds v. Sims*, 377 U.S. 533 (1964) (disparities in voting strength based on population of electoral district violate equal protection clause of Fourteenth Amendment); *Davis v. Bandemer*, 478 U.S. 109 (1986) (dilution of voting strength is justiciable under the equal protection clause).

Massive, unregulated soft money donations have indeed distorted the "marketplace of political ideas." The record demonstrates that soft money is primarily aimed at influencing federal elections, and is appropriately brought within the regulatory framework of the Federal Elections Campaign Act (FECA), 2 U.S.C. § 431 *et seq.* Soft money donations have enabled a class of corporate and individual super-donors to circumvent hard money regulations and wield electoral clout that ordinary citizens cannot dream of having. A victory for the asserted speech rights of this tiny fraction of our citizenry would be a defeat for the democratic values at the core of the First Amendment.

ARGUMENT

I. UNREGULATED SOFT MONEY CONTRIBUTIONS HAVE CONFERRED DISPROPORTIONATE ELECTORAL POWER ON THE LARGEST DONORS AND DISCOURAGED BROAD POLITICAL PARTICIPATION.

The rise of nonfederal political party donations, or soft money, brought a radically increased concentration of electoral power in the hands of an elite group of donors. As the record demonstrates, a small number of wealthy corporations and individuals have provided the lion's share of the soft money flowing to parties.[5] These massive

[5] The $498 million in soft money raised in the 2000 elections constituted 42 percent of the spending by the national political parties, and a full 60 percent of this large sum came from only 800 corporate and individual donors, each giving $120,000 or more. *See* Opinion of Judge Kollar-Kotelly ("Kollar-Kotelly Op.") at 489-91sa (citing Mann

(Continued on following page)

contributions purchased electoral influence, as much of the soft money was used to benefit federal candidates, either deployed through state organizations for the benefit of federal candidates or spent by the parties on "issue advocacy" which in effect was targeted at federal races.[6]

Soft money contributions, like the "hard money" donations regulated by FECA, 2 U.S.C. § 441a, reflect the major parties' "capacity to concentrate power to elect." *FEC v. Colo. Republican Fed. Campaign Comm.* ("*Colo. Republican II*"), 533 U.S. 431, 455 (2001). With soft money, as with hard, "donors give to the party with the tacit understanding that the favored candidate will benefit." *Id.* at 458.[7] Large soft money donors, in addition to

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Expert Report at 21-25); Opinion of Judge Leon ("Leon Op.") at 1189sa (citing Mann Expert Report at 24-25). The top 50 soft money donors in 2000 – 35 of which were corporations – each contributed between $955,695 and $5,949,000. *See* Leon Op. at 1189sa (citing Mann Expert Report at Table 6). All citations to the district court opinions are to the Supplemental Appendix to Jurisdictional Statements, Vols. I-V, filed by the appellants in *McConnell v. FEC*, No. 02-1674, on behalf of all of the parties to the consolidated challenges to the Bipartisan Campaign Finance Reform Act of 2002.

[6] *See* Kollar-Kotelly Op. at 566sa (finding that candidates value nonfederal donations "almost as much as donations made directly to their campaigns and ... these donations assist federal candidates' campaigns. Furthermore, the evidence makes clear that the national parties also direct nonfederal donations to their state party affiliates for the purpose of affecting federal elections"); Leon Op. at 1202 ("The national parties spend a large proportion of their nonfederal money on so-called 'issue advertisements' that are really designed to help elect specific federal candidates").

[7] *See* Kollar-Kotelly Op. at 558-562 (discussing finding that "Nonfederal Funds are Given with Intent to Assist Specific Members of Congress; Political Parties Keep Track of Contributions Members of Congress Raise"); Leon Op. at 1198sa-1202sa (reviewing evidence in support of finding that "[n]onfederal money is often given to national

(Continued on following page)

gaining the ability to influence electoral outcomes disproportionate to the strength of their ideas, also gain an unearned hold on the political parties. *See* Richard Briffault, *The Political Parties and Campaign Finance Reform*, 100 COLUM. L. REV. 620, 666 (2000) ("When party leaders can raise huge sums at White House coffees or Speakers' Club retreats, they necessarily become more sensitive to the interests of their big donors, and less attentive to their less well-heeled, rank-and-file supporters").

Thus, soft money has been a back channel for the wealthy not only to instill a sense of obligation in federal candidates, as the defendants and intervenors maintain, but also to greatly amplify their electoral influence. Congress rightly considered the corrosive effect carried by such concentration of electoral power in the hands of these few donors. As Representative Shays described the legislation he co-sponsored, it was "about making sure that rich individuals cannot buy elections ...." 148 CONG. REC. H263 (daily ed. Feb. 12, 2002). Representative Clements observed, "In America we have a substantial number of people who do not vote in elections, who do not participate in elections. Why? Because of the influence of big money." 148 CONG. REC. H240 (daily ed. Feb. 12, 2002). *See also, e.g.*, 148 CONG. REC. S2160 (daily ed. Mar. 20, 2002) (Sen. Feingold); 148 CONG. REC. H235 (daily ed. Feb. 12, 2002) (Rep. Frank); 148 CONG. REC. H270 (daily ed. Feb. 12, 2002) (Rep. Lucas); 148 CONG. REC. H272 (daily ed. Feb.

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parties with the understanding that it will be used to assist the campaigns of particular federal candidates, and, indeed, it is often used for that purpose").

12, 2002) (Rep. Moore); 148 CONG. REC. H350 (daily ed. Feb. 13, 2002) (Rep. Nadler).

The ability of a small number of individuals and corporations to channel vast sums of money into elections diminishes the electoral influence of ordinary citizens to such an extent that many perceive their participation to be meaningless. "There is in this country a widely held belief that special interests and the very wealthiest campaign contributors have way too much influence in our political system. This belief discourages citizen participation in our democracy." 148 CONG. REC. H272 (daily ed. Feb. 12, 2002) (Rep. Moore). In other words, the effect of soft money has been to "render political association ineffective." *Shrink Mo.*, 528 U.S. at 397. The resulting disparities strike at the foundation of democracy. "To the extent that a citizen's right to vote is debased, he is that much less a citizen." *Reynolds v. Sims*, 377 U.S. 533, 567 (1964).

II. THE FIRST AMENDMENT PROTECTS THE RIGHT OF ALL CITIZENS TO MEANINGFUL POLITICAL PARTICIPATION.

A. The First Amendment Recognizes Broad Political Participation as a Vital Government Interest.

Equality concerns are firmly embedded in this Court's First Amendment jurisprudence. In the compaign finance context, this Court has on several occasions affirmed that the state may act to "protect the integrity of the marketplace of political ideas" by denying "resources amassed in the economic marketplace" the ability to gain an "unfair advantage in the political marketplace." *FEC v. Mass. Citizens for Life* ("*MCFL*"), 479 U.S. 238, 257 (1986) (ban

on corporate expenditure invalid as applied to non-profit corporation); *see also Austin v. Mich. Chamber of Commerce*, 494 U.S. 652, 257 (1986) (upholding ban on campaign spending from corporate treasury); *FEC v. Nat'l Right to Work Comm.* ("*NRWC*"), 459 U.S. 197, 207-08 (1982) (upholding ban on corporate solicitation of non-members). For this reason, the Court has permitted stricter regulation of contributions and spending by labor unions as well as corporations, *see U.S. v. UAW*, 352 U.S. 567 (1957), and much of soft money indeed has come from corporate and union treasuries.[8]

While the Court has cited concern over the "special advantages which go with the corporate form of organization," *NRWC*, 459 U.S. at 207, the threat recognized by these cases is a broader one: "the potential for unfair deployment of wealth for political purposes." *MCFL*, 479 U.S. at 259. If corporate money can purchase results which "have little or no correlation to the public's support for the corporation's political ideas," *Austin*, 494 U.S. at 660, the same can surely be said of large accumulations of personal wealth.[9] These decisions recognize that the electoral influence of large war chests threatens to dampen the will of ordinary citizens to engage in politics.

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[8] Of the 800 largest soft money donors in 2000, each giving over $120,000, 435 – or 54 percent – were corporations, unions and other organizations, and 365 were individuals. Mann Expert Report at 24.

[9] The statement in *MCFL* that "[r]elative availability of funds is after all a rough barometer of public support," 479 U.S. at 258, clearly has greater validity when each public supporter is able to contribute roughly similar amounts, and has far less validity when a few members of the public can tip the scales toward their own opinion, as with large soft money gifts.

"Speaking broadly, what is involved here is the integrity of our electoral process, and, not less, the responsibility of the individual citizen for the successful functioning of that process." *UAW*, 352 U.S. at 570. As this Court said in approving of the federal ban on labor union contributions and expenditures, "[I]ts aim was not merely to prevent the subversion of the integrity of the electoral process. Its underlying philosophy was to sustain the active, alert responsibility of the individual citizen in a democracy for the wise conduct of government." *Id.* at 575.

Thus the First Amendment actively protects the broad and diverse expression needed for meaningful public debate, in concert with the constitutional equal protection guarantee. "The First Amendment's constitutional role is not simply one of protecting the individual's 'negative' freedom from government restraint. The Amendment in context also forms a necessary part of a constitutional system designed to sustain that democratic self-government." Stephen Breyer, *Madison Lecture: Our Democratic Constitution*, 77 N.Y.U. L. REV. 245, 253 (2002). As Justice Brennan similarly observed:

> [T]he First Amendment embodies more than a commitment to free expression and communicative exchange for their own sakes; it has a *structural* role to play in securing and fostering our republican system of government. Implicit in this structural role is not only 'the principle that debate on public issues should be uninhibited, robust, and wide-open,' but also the antecedent assumption that valuable public debate – as well as other civic behavior – must be informed.

Richmond Newspapers, Inc. v. Virginia, 448 U.S. 555, 587 (1980) (Brennan, J., concurring).

The gaping inequalities created by the soft money regime limit the range of public debate in a manner antithetical to these First Amendment values. *See Shrink Mo.*, 528 U.S. at 401 (Breyer, J., joined by Ginsburg, J., concurring) (contribution limits "encourag[e] the public participation and open discussion that the First Amendment itself presupposes"); *Turner Broad. Sys. v. FCC*, 520 U.S. 180, 189-90 (1997) (recognizing "important governmental interest" in "promoting the widespread dissemination of information from a multiplicity of sources"). *See also* Burt Neuborne, *Toward a Democracy-Centered Reading of the First Amendment*, 93 NW. U. L. REV. 1055, 1072-73 (1999) ("[W]ealth disparity introduces massive political inequality skewed to a predictable set of self-interested positions" and permits "wholly unjustifiable differences in political power to emerge .... The obvious inequalities introduced by massive wealth disparities cause many persons to lose faith in the system"); Owen M. Fiss, *Free Speech and Social Structure*, 71 IOWA L. REV. 1405, 1412 (1986) (in an election campaign, the resources at the disposal of the rich "enable them to fill all available space for public discourse with their message"); J. Skelley Wright, *Money and the Pollution of Politics: Is the First Amendment an Obstacle to Political Equality?*, 82 COLUM. L. REV. 609, 636 (1982) ("To invoke the first amendment, not to protect diversity, but to prevent society from defending itself against the stifling influence of money in politics is to betray the historical development and philosophical underpinnings of the first amendment"); Ronald Dworkin, *Free Speech and the Dimensions of Democracy*, *in* IF BUCKLEY FELL 63, 78-79 (E. Joshua Rosenkranz ed., 1999) ("People cannot plausibly regard themselves as partners in an enterprise of self-government when they are effectively

shut out from the political debate because they cannot afford a grotesquely high admission price").

B. *Buckley v. Valeo* Does Not Bar the Promotion of Equality as a Government Interest Justifying Regulation.

Buckley v. Valeo does not foreclose equality of political participation as a First Amendment value. *Buckley*'s disapproval of measures that "restrict the speech of some elements of our society in order to enhance the relative voice of others," *Buckley v. Valeo*, 424 U.S. 1, 48-49 (1976), cannot, as Justice Breyer has observed, "be taken literally." *Shrink Mo.*, 528 U.S. at 402 (Breyer, J., joined by Ginsburg, J., concurring). For, as Justice Breyer noted, the Constitution "often permits restrictions on the speech of some in order to prevent a few from drowning out the many." *Id.* In addition to the examples provided by Justice Breyer (including the rules of congressional debate and ballot access laws, *id.*), this Court has on numerous occasions upheld regulations that limit or dilute the intensity of one voice, or a few voices, to keep them from overwhelming the speech of others. *See Turner Broad. Sys.*, 520 U.S. 180 (upholding Cable Act "must carry" provision against cable operators' First Amendment claim); *Pruneyard Shopping Ctr. v. Robins*, 447 U.S. 74, 85-88 (1980) (state law allowing pamphleteers in private shopping mall did not infringe disagreeing mall owner's First Amendment rights); *Red Lion Broad. Co. v. FCC*, 395 U.S. 367, 389-90 (1969) (upholding FCC rebuttal requirements for broadcast personal attacks and political editorials). Even the above-cited passage of *Buckley* acknowledges that the First Amendment was "designed to 'secure the widest possible dissemination of information from diverse and antagonistic

sources,' and 'to assure unfettered interchange of ideas for the bringing about of political and social changes desired by the people.'" *Buckley*, 424 U.S. at 49 (citations omitted).

In addition, this passage of *Buckley*, with its warning against "restrict[ing] speech of some elements of our society," 424 U.S. at 48, was directed at FECA's spending limits; in contrast, contribution limits such as the political party regulations at issue in Title I of BCRA,[10] entail "only a marginal restriction upon the contributor's ability to engage in free communication." *Id.* at 20-21; *see also FEC v. Beaumont*, 539 U.S. ___, 123 S. Ct. 2200, 2210 (2003) ("Going back to *Buckley v. Valeo*, 424 U.S. 1 (1976), restrictions on political contributions have been treated as merely 'marginal' speech restrictions subject to relatively

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[10] While the soft money ban acts as a complete prohibition on contributions to national parties from corporate treasuries, rather than a limit, corporations remain free to contribute hard money from segregated accounts. And it is already settled that corporations may be barred from making campaign independent expenditures from their treasuries, *Austin*, 494 U.S. 652, which entails a greater restriction than a contribution ban. *See* Richard Hasen, *The Constitutionality of a Soft Money Ban after Colorado Republican II*, 1 ELECTION L. J. 195, 200-202 (2002).

Neither is the speech of the political parties unconstitutionally burdened, as there can be no showing that FECA's limits on hard money contributions to parties – raised, for individuals from $20,000 to $25,000, *see* BCRA § 307(a)(2), 116 Stat. 102 – are so low as to impede the parties' ability to "amas[s] the resources necessary for effective advocacy," *Buckley*, 424 U.S. at 21 or "so radical in effect as to render political association ineffective, drive the [parties'] voice below the level of notice and render contributions pointless." *Shrink Mo.*, 528 U.S. at 397. Judge Kollar-Kotelly noted that as soft money donations rose during the 1990s "hard money contributions rose markedly as well, from $445 million to $741 million." Kollar-Kotelly Op. at 491sa, quoting Green Expert Report at 30.

complaisant review under the First Amendment, because contributions lie closer to the edges than to the core of political expression"); *Colo. Republican II,* 533 U.S. at 440, 456 (applying more deferential standard of review to political party coordinated expenditures, which may be regulated as contributions); *Shrink Mo.*, 528 U.S. at 386-88 (lesser scrutiny applied to contribution limits than expenditure limits).

In fact, the government interest in combating corruption and the perception of corruption, which *Buckley* and subsequent cases have held justifies contribution limits, *see Buckley*, 424 U.S. at 20; *Shrink Mo.*, 528 U.S. at 386-88; *Colo. Republican II*, 533 U.S. at 440; *Beaumont*, 123 S. Ct. at 2207, is in practice intertwined with considerations of political equality. Commentators have noted that the concern about corruption is inexplicable without reference to the larger goal of equality. David A. Strauss, *Corruption, Equality, and Campaign Finance Reform*, 94 COLUM. L. REV. 1369, 1370-75 (1994). The influence of large contributions on policy is troubling largely, if not primarily, because citizens do not have an equal ability to make them; if all citizens had equal financial resources and thus an equal ability to purchase political influence through contributions, political contributions would become an accurate proxy for political support.

In the debate over BCRA, many members of Congress gave voice to the notion that corruption exists in the unequal ability of all citizens to have a say in the working of government. For example, Sen. Lieberman said: "When the price of entry to our democracy's discussion starts to approach the average American's annual salary, something is terribly wrong. When we have a two-tiered system of access and influence – one for the average volunteer and one for the big contributor – something is terribly wrong."

147 CONG. REC. S2531 (daily ed. Mar. 19, 2001) (Sen. Lieberman). Senator Dodd similarly voiced his belief that:

> no democracy can thrive – if indeed survive – if it is awash in massive quantities of money; money that threatens to drown out the voices of the average voter of average means; money that creates the appearance that a wealthy few have a disproportionate say over public policy.

147 CONG. REC. S2435 (daily ed. Mar. 19, 2001) (Sen. Dodd). *See also, e.g.,* 147 CONG. REC. S2449 (daily ed. Mar. 19, 2001) (Sen. Collins); 148 CONG. REC. H350 (daily ed. Feb. 13, 2002) (Rep. Nadler); 148 CONG. REC. H342 (daily ed. Feb. 13, 2002) (Rep. Lewis).

This linkage between corruption and inequality underlies the Court's post-*Buckley* rulings on corporate campaign finance regulations, which aim "to ensure that substantial aggregations of wealth ... should not be converted into political 'war chests' which could be used to incur political debts from legislators who are aided by these contributions." *NRWC*, 459 U.S. at 207; *see also Austin*, 494 U.S. at 659-60; *and see* Stephen Loffredo, *Poverty, Democracy and Constitutional Law*, 141 U. PA. L. REV. 1277, 1285 (1993) (with *Austin* the court "squarely acknowledged – for the first time in constitutional discourse – that inequalities of private economic power tend to reproduce themselves in the political sphere and displace legitimate democratic governance").

* * *

The First Amendment must stand in aid of, rather than opposed to, principles of political equality at the heart of this nation's identity. The challenge to the BCRA soft money ban poses the question famously asked and

answered by James Madison: "Who are to be the electors of the Federal Representatives? Not the rich more than the poor; not the learned more than the ignorant; not the haughty heirs of distinguished names, more than the humble sons of obscure and unpropitious fortune. The electors are to be the great body of the people . . . ." FEDERALIST No. 57, at 385 (J. Madison) (J. Cooke ed., 1961). In banning unlimited soft money gifts, Congress sought to preserve the public's faith in, and engagement with, the electoral process. It would be the saddest of ironies if the First Amendment's guarantee of freedom of speech were interpreted to bar such an effort.

CONCLUSION

For the foregoing reasons, the Court should uphold the regulations contained in Title I of the Biparitisan Campaign Finance Reform Act of 2002 in their entirety.

Respectfully submitted,

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